

Members

Sen. Morris Mills, Chairperson
Sen. Joseph Harrison
Sen. James Lewis
Sen. Cleo Washington
Rep. Robert Bischoff
Rep. Thomas Kromkowski
Rep. Richard Mangus
Rep. Ralph Foley
Kenneth Stoughton
The Honorable David Dreyer
Karen Kennelly



PUBLIC OFFICERS COMPENSATION STUDY COMMITTEE

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Authority: P.L. 39-1999 (HEA 1150)

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MEETING MINUTES¹

Meeting Date:	September 22, 1999
Meeting Time:	10:00 A.M.
Meeting Place:	State House, 200 W. Washington St., Senate Chambers
Meeting City:	Indianapolis, Indiana
Meeting Number:	1

Members Present: Sen. Morris Mills, Chair; Sen. James Lewis; Rep. Robert Bischoff; Rep. Thomas Kromkowski; Rep. Richard Mangus; Rep. Ralph Foley; Kenneth Stoughton; The Honorable David Dreyer; Karen Kennelly.

Members Absent: Sen. Joseph Harrison; Sen. Cleo Washington.

The Chair, Senator Mills, called the meeting to order at approximately 10:05 a.m. Committee members and staff introduced themselves. The Chair asked staff to review the Committee charge and certain information previously sent to Committee members.

Staff reviewed the provisions of HEA 1150-1999 which created the Committee. The Committee's charge is to determine whether to recommend to the General Assembly the creation of a permanent executive commission to receive information concerning, and to adopt rules to set, the salaries of state elected officials, judges, and members of the General Assembly.²

1. Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

2. A copy of HEA 1150-1999 is Exhibit 1 to these Minutes.

Staff reviewed a chart that compares features of compensation commissions of other states.³ Staff informed the Committee that 14 states have a general compensation commission which is a commission that has authority over salaries of all state officials, including judges and legislators. Six other states have a judicial compensation commission. Staff told the Committee that there is a federal compensation commission but did not provide details regarding the federal commission.

Staff focused on three aspects of the compensation commissions summarized on the charts: (1) The group of public officers whose salaries the commission has authority to recommend or set. (2) Whether the commission's authority is binding or advisory. (3) Whether the statutes creating the commissions set standards for the commissions to consider when recommending or setting salaries.

Staff reported that 12 of the 14 general compensation commissions have authority over salaries of officers in all three branches of government. The commissions of two states must review the salaries of legislators but are not required to review salaries of other officers. Six states have commissions that review salaries only of judicial officers.

With respect to the advisory or binding effect of salary recommendations, staff told the Committee that seven of the general compensation commissions are advisory and seven have binding authority to set salaries. Five of the judicial compensation commissions have advisory authority and one has binding authority.

Staff informed the Committee that the legislation of each of the ten states that have commissions contains explicit standards for the commission to consider and the legislation of each of the other ten states does not have explicit standards for their commissions to consider.

Staff reviewed the provisions of HB 1647-1999, authored by Representatives Cochran and Bauer.⁴ Staff told the Committee that the bill would have created a general compensation commission for Indiana that would have binding authority to set salaries and would be given explicit criteria to consider when setting salaries.

Staff discussed provisions of the Indiana Constitution relevant to the draft. Staff noted that Article 4, Section 29 of the Indiana Constitution requires legislative pay to be set by "law." There are only two ways to make a law in Indiana: by statute or by an administrative rule adopted under authority granted by a statute. This is the reason that the bill gives the compensation commission the authority to adopt rules to set salaries. Staff said that the language on page 5 lines 25 through 31 of HB 1647-1999 is the result of Article 5, Section 22 of the Constitution which forbids a change in the salary of the governor during the governor's term of office. Staff told the Committee that the language on page 5, lines 32 through 39, relating to the effective date of salary increases for legislators may be based on an erroneous reading of the Indiana Constitution. Staff suggested that the common wisdom is that the Constitution prohibits an increase in legislative salaries to take effect until after a general election of members of the General Assembly. However, Article 4, Section 29 provides only that "no increase of compensation

3. A copy of the chart is Exhibit 2 to these Minutes.

4. A copy of HB 1647-1999 is Exhibit 3 to these Minutes.

shall take effect **during the session** at which such increase may be made." [Emphasis added.] Staff told the Committee that the language on page 6, lines 4 through 7 resulted from the requirement of Article 7, Section 19 of the Constitution that prohibits a decrease in the salaries of judicial officers.

Finally, staff told the Committee that the bill would have provided the General Assembly an opportunity to void a salary rule before it took effect.

Representative Foley asked why HB 1647 did not deal with the salaries of prosecuting attorneys. Staff responded that another section of the Indiana Code not amended by the bill ties the salaries of prosecutors to those of judges. Consequently, the salaries of prosecutors would automatically change whenever the compensation commission adopts a salary for judges.

The Chair stated that he thought the Committee's first task is to decide whether a recommendation should be made to establish a compensation commission. There was discussion among Committee members regarding the political difficulties the General Assembly has in raising salaries of public officials, particularly the salaries of its own members. Some committee members expressed concern that decisions relating to salaries of public officials not be made outside a public forum.

Representative Kromkowski stated that unless members of the General Assembly are adequately compensated, only those who are wealthy or retired would be willing to serve. He said he was in favor of exploring a draft such as discussed at the meeting. Judge Dreyer concurred in those statements. Ms. Kennelly said that the Committee should try to find out from those states that have a compensation commission what the benefits have been and whether there have been any negative consequences.

Representative Mangus asked whether a compensation commission would have the authority to consider issues relating to benefits. Staff responded that HB 1647 did not give the proposed commission authority over benefits and that it was his impression reviewing the statutes of other states that, generally speaking, other compensation commissions did not have authority to determine or make recommendations concerning benefits. Staff did note that HB 1647 provided that the benefit package provided to a state official was a factor the commission could consider when determining an appropriate salary.

Representative Bischoff said that he was concerned that by creating a commission the public might perceive that the General Assembly was trying to duck political responsibility for setting salaries. Senator Mills responded by noting that legislators debate and approve a state budget that is based in a large measure on the recommendations of people outside the General Assembly. Ms. Kennelly stated she found it interesting that the General Assembly can set the salaries of its own members, a practice that is contrary to the general practice in the private sector. She observed that perhaps it would be better politically to have an objective body of citizens set legislative salaries.

The Chair recognized Judge Mary Lee Comer who is a judge of the Hendricks Superior Court and President of the Indiana Judges Association. Judge Comer told the Committee that the Indiana Judges Association and the Indiana Prosecuting Attorney's Council favor the creation of a compensation commission. Judge Comer offered the support of the Judges Association for the Committee's work and thanked Committee members for their time.

The Chair suggested that if the Committee recommends creation of a compensation commission perhaps the Committee might want to make a recommendation for interim salary increases because, as was discussed at the meeting, provisions of the Indiana Constitution might delay any salary recommendations a commission might make for several years.

The Committee determined to meet again on October 12 at 10:00 a.m. and on October 27 at 10:00 a.m. Committee members and the public would be notified later of the place of each of the meetings.

The Committee adjourned at approximately 11:15a.m.